

REMARKS

A. OVERVIEW

Claims 1-28 are pending in the present application. The most recent Action responds to Applicant's arguments that the previously cited combination of the Commodities Trading Manual ("the Manual") in view of the Walker patent does not render the claims obvious.

It is respectfully requested that this response be entered and the application be further considered in conjunction with a concurrently filed Request for Continued Examination.

B. SECTION 103 REJECTIONS

The sole rejection to Applicant's claims and application is obviousness based on a combination of the Manual and the Walker patent. The beginning of the most recent Office Action responds to Applicant's arguments in traversal of the Examiner's previous obviousness rejections of the claims. As understood, it is the Examiner's position that the Applicant's pending claims define no more than a conventional web-based contract formation program and/or that Applicant's claim language does not include language that differentiates from the same. The obviousness rejections are respectfully traversed.

It is respectfully submitted that, to the contrary, Applicant's claims define methods that differ from the relevant state of the art in explicit terms. It is respectfully submitted that the cited combination of references neither singly nor in combination *prima facie* teach or suggest Applicant's claims.

The Supreme Court's opinion in *KSR*, 82 USPQ2d 1385 (2007), confirmed that the correct analytical framework for evaluating obviousness is controlled by *Graham v. Deere*, 383 U.S. 1,

148 USPQ 459 (1966). Reconsideration of Applicant's claims is respectfully requested based on the *Graham v. Deere* framework that obviousness is evaluated in light of:

- (1) determining the scope and content of the relevant prior art,
- (2) ascertaining differences between the claimed invention and the determined relevant prior art,
- (3) and resolving the level of ordinary skill in the art.

1. Scope and Content of Prior Art

The Manual has been discussed in detail in Applicant's prior responses, which are repeated and incorporated by reference herein.

Applicant respectfully requests reconsider based on the fact that the Manual and Walker do, in fact, represent different paradigms from Applicant's claimed invention.

The Manual describes a conventional exchange-driven system. Brokers or other participants engage in trading of paper, so to speak, which is facilitated by the exchange. Such a paradigm is quite old.

Walker describes a conditional purchase offer (CPO) arrangement. The goal is to allow a party to unilateral and legally bind the other.

The relevant prior art to Applicant's claims is described in detail in Applicant's specification. It is not a commodities exchange as in the Manual. It is not a CPO model like Walker. It relates to the conventional and problematic method of trying to facilitate contracting between willing buyers and willing sellers of agricultural commodities.

2. Differences Between Claimed Invention and the Prior Art

The differences between the explicit language of Applicant's claims and the cited references has been discussed in Applicant's prior responses, which are repeated and incorporated by reference herein.

Applicant's claims explicitly describe the facilitation of contracting for agricultural production.

A commodities exchange is antagonistic and teaches away from Applicant's claims. A CPO arrangement is likewise. The *KSR* case confirmed that prior art that teaches away from combining certain known elements bears in favor of non-obviousness.

There is no showing that a commodities exchange paradigm would function in a CPO context, or the reverse.

It is the combination of limitations of Applicant's claims that support patentability over the cited references. There is no showing that the claimed combination in, for example, Applicant's claim 1, is a "predictable use of prior art elements according to their established functions." See *KSR*.

Therefore, Applicant respectfully requests reconsideration based on the factors of *Graham v. Deere* in light of the holding of *KSR*.

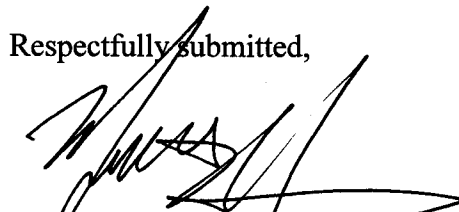
C. CONCLUSION

This amendment accompanies the filing of a Request for Continued Examination (RCE). Please charge Deposit Account No. 26-0084 the amount of \$405.00 for the RCE per the attached transmittal.

This is a request under the provision of 37 CFR § 1.136(a) to extend the period for filing a response in the above-identified application for two month from May 4, 2009 to July 4, 2009. Applicant is a small entity; therefore, please charge Deposit Account number 26-0084 in the amount of \$245.00 to cover the cost of the one-month extension. Any deficiency or overpayment should be charged or credited to Deposit Account 26-0084.

Reconsideration and allowance of the claims is respectfully requested. Please charge deposit account 26-0084 for any fees required for entry of this response.

Respectfully submitted,



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